

SECTION X

FEDERAL AND STATE LAWS, RULES, ETC. AND OTHER GOVERNMENT HOUSING PROGRAMS

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This section discusses various federal and states laws, regulations and policies that impact LIHTC projects. Additional discussion is contained in **Part 260 (Major Regulations and Legislation Impacting LIHTC Compliance Monitoring)**.

Part 1000 Fair Housing Act / Discrimination Prohibited in LIHTC Projects

MSHDA encourages fair housing compliance. Owners or agents of LIHTC projects shall comply with federal law, which prohibits discrimination based on race, color, religion, sex, national origin, handicap and familial status. Project owners and agents must also comply with Michigan Laws, which additionally prohibits discrimination based on age, marital status, height, weight, and disability. Some local ordinances may prohibit discrimination based on source of income and sexual orientation. Additionally, owners cannot refuse to accept a prospective tenant based solely on the fact that the applicant holds a Section 8 rental voucher or certificate. For information about Section 8, see **Part 825**. All owners, managers, and staff members should be familiar with both state and federal civil rights and fair housing laws.

As part of the IRS annual owner certification requirements, owners must certify to MSHDA any finding of discrimination under the Fair Housing Act. MSHDA will report any discrimination findings to the IRS as required by IRS Form 8823. For additional information regarding the annual owner certification, see **Part 715**. A copy of the IRS form 8823 is included in **Appendix I**.

Information about the Fair Housing Act is available on the Internet at www.HUD.gov, select “Resources – Library”, Bookshelf 9: Fair Housing Act”. The Fair Housing Hotline number is 1-800-669-9777. The toll-free TDD number for the hearing impaired is 1-800-927-9275. Information about Elliot Larsen Civil Rights Act can be obtained on the Michigan Department of Civil Rights Website at www.michigan.gov/mdcr.

Part 1010 Reasonable Accommodations / Americans with Disabilities Act

Information about the Americans With Disabilities Act can be obtained on the U.S. Department of Justice website at www.usdoj.gov/crt/ada. The toll-free information line is 1-800-514-0301 (voice) or 1-800-514-0383 (TDD). Information about Michigan’s Disabilities Civil Rights can be obtained on the Michigan Department of Civil Rights (MDCR) website at www.michigan.gov/mdcr. The MDCR telephone number is 1-800-482-3604 (voice) or 1-313/961-1552 (TDD).

For discussion of a related topic, see **Part 820 (Persons With Special Needs / Developmentally Disabled Persons)**.

Part 1020 :: Physical Condition Standards

LIHTC projects must be maintained in accordance with Uniform Physical Condition Standards (UPCS). MSHDA will conduct inspections of every building in all LIHTC projects at least once every three years (except those regulated by Rural Housing Services). Information about UPCS standards can be obtained on the U.S. Department of HUD Real Estate Assessment Center website at www.hud.gov/offices/reac. LIHTC projects that are regulated by Rural Housing Services (RHS) must be maintained in accordance with RHS standards.

For additional information, see **Part 770 (Physical Inspections)**. For information about RHS, see **Part 685 (Qualifying Tenants in RHS Projects)**.

Part 1030 :: Statutory Set-Asides

The legislature of the State of Michigan has statutorily created certain “set-asides” (see Section 22b(5) of P.A. 346 of 1966, as amended), based on the housing needs within the state. A percentage of the state’s total credit ceiling each year is set aside for the following:

- A. Qualified nonprofit organizations pursuant to Section 42 of the Internal Revenue Code.
- B. Housing Projects for the elderly.
- C. Rural Housing Services (formerly known as Farmer’s Home Administration) projects.
- D. Housing projects in eligible distressed areas.

Projects that receive allocations under A or B above must document that the project has been and is in continuous compliance with the requirements of these categories.

Part 1040 :: Non-Profit Participation

For projects receiving allocations under the Qualified Nonprofit statutory set-aside, documentation must be provided indicating that the nonprofit organization is materially participating in the ongoing management and operation of the projects.

Documentation that must be included in the Development File (see **Part 350**) is as follows:

- 1. A copy of the approved 501(c)(3) or 501(c)(4) documents.
- 2. Documentation of the percent of project ownership held by the non-profit organization.
- 3. Documentation of the on-going participation of the non-profit organization.

Part 1050 :: Statutory Set-Aside for Elderly Projects

For projects receiving allocations under the Elderly statutory set-aside, documentation must be provided indicating that all of the tenants residing in LIHTC units qualify as “Elderly”. Each tenant file (see Part 755) must contain documentation of the ages of the head(s) of household and all other members. The Development File must include a completed Annual Project Summary (Form LIHTC 042), which details the number of units occupied by elderly persons.

Part 1060 :: Other Regulations

- **Unit Comparability Requirements** – See **Part 900 (Definition of a Low Income Unit)**.
- **General Public Requirements** – See **Part 950**.
- **Occupancy Guidelines / Household Size** – See **Part 805**.
- **Ineligible Facilities** – See **Part 955**.

Part 1070 :: Qualified Allocation Plan

This section discusses the Compliance Monitoring requirements of projects funded under various Michigan’s Qualified Allocation (QAP) plans. See **Part 215 (Qualified Allocation Plan)** for more information. A copy of the Michigan QAP for 2002 is included in **Appendix M**.

A. Reservations Made Under the 1990 Qualified Allocation Plan

Same as **Part 1070-B**, Reservations made under the 1993 Qualified Allocation Plan

B. Reservations Made Under the 1993 and 1994 Qualified Allocation Plans

Same as **Part 1070-C**, Reservations made under the 1995 Qualified Allocation Plan, with the following addition:

1. **Projects utilizing innovative technology that will demonstrably decrease initial costs without increasing maintenance costs or decreasing fire safety and energy conservation standards. – 1990, 1993, 1994**

Documentation in the Development File must include:

- (a) A description of the innovative technology used; and
- (b) A signed letter from the builder or certified inspector (conducted after completion of construction) indicating the use of the innovative technology.

C. Reservations Made Under the 1995 Qualified Allocation Plan

Following is a list of criteria used in the scoring process that have specific compliance monitoring implications and the corresponding documentation required:

2. Material participation in sponsorship and proposed ownership by minorities and/or women. – 1995, 1994, 1993

Documentation of the name and percent of ownership of all minorities and/or women who have an ownership interest in the entity that owns the property must be included in the Development File.

3. Material participation in management by minorities and/or women. – 1995, 1994, 1993.

Documentation of name and percent of ownership of all minorities and/or women who have an ownership interest in the entity that manages the property must be included in the Development File.

4. Local nonprofit organizations that are currently involved in housing in the area in which the project is to be located and that are part of the ownership entity, and participate in the on-going management of the project during the entire low-income use period. – 1995, 1994, 1993

The Development File must include documentation of the following:

- (a) The name, address, and percent of ownership of all local non-profit organizations which have an ownership interest in the entity that owns or manages the property and participates in the on-going management of the project.
- (b) A description of the role that non-profit organization plays in the on-going management of the project.
- (c) Copy of the approved 501(c)(3) or 501(c)(4) documents.

5. Projects designed to meet large, low-income family needs by having units of three bedrooms or more.

The Development File must include documentation of the addresses of the units that contain three or more bedrooms.

6. Projects serving developmentally disabled persons under a qualified program of the Michigan Department of Mental Health.

The Development File must include documentation of the following:

- (a) A copy of the signed agreement with the Michigan Departments of Community Health or a signed legal contract with a local service provider.
- (b) An Annual Project Summary (Form LIHTC 042), which details the units occupied by developmentally disabled persons.

7. Projects for transitional housing and/or homeless.

The Development File must include the following:

An Annual Project Summary (Form LIHTC 042), which details the units occupied by transitional or homeless persons.

8. For each year beyond the initial 15 years that the owner agrees, through the vehicle of a recorded use restriction, to serve qualified low income tenants in at least the original minimum set aside percentage, the applicant, in order to receive additional points, agree to maintain the set aside for additional number of years, up to perpetuity.

The Development File must include a copy of the recorded restrictive covenant.

9. Preference points for projects serving the lowest income tenants will be awarded insofar as the owner also agreed to restrict the rents for such percentage of tenants below the minimum set-asides to 30% of the applicable household income for the applicable bedroom size.

The Development File must include.

- (a) A copy of the recorded use restriction agreement.
- (b) An Annual Project Summary (LIHTC Form #042) for each year of the compliance period, detailing the income levels of all tenants in the development.

D. Reservations Made Under the 1996, 1997, 1998 and 1999 Qualified Allocation Plans.

Same as “Reservations made under the 1995 Qualified Allocation Plan”, with the following in addition:

10. The Owner of a project must maintain an Affirmative Fair Housing Marketing Plan for the project.

The Development File must include a copy of the Affirmative Fair Housing Marketing Plan for the project that was submitted to the Authority with the initial application. This requirement for an Affirmative Fair Housing Marketing Plan is applicable only to owners of projects that received points under this category.

E. Reservations Made Under the 2000, 2001, and 2002 Qualified Allocation Plans.

- 11. Projects that agreed to reserve at least 10% of the two and/or three bedroom units for households with children.**

The Development File must include a copy of the Annual Project Summary form, detailing which two and three bedroom units are rented to households with children.

- 12. Projects serving the elderly (that qualified for the elderly set-aside) that agreed to provide community space for use by tenants. The community room must, at a minimum, be sized at 15 square feet per residential unit. It may be used for activities such as dining, crafts, exercise, medical clinic, socializing, or other activity or use that may benefit elderly tenants.**

The Development File must include a description of the community room and the types of activities that it is being used for.

- 13. Projects that agree to sell the rental units to eligible tenants at the end of the initial low-income use period. This option was available only for single family or townhouse units.**

The Development File must include a list of whom the units were sold, and indicate the date that the tenant/new owner moved into the LIHTC rental project.

- 14. Projects specifically and entirely designed to serve persons with special needs who receive substantial support services as a result of a contract (or equivalent relationship) with a local service provider. This option was available only for new construction of 30 or fewer units, or rehabilitation projects regardless of number of units.**

The Development File must include a copy of the Annual Project Summary Report detailing which units were occupied by special needs persons and a copy of the contract entered into with the local service provider.

- 15. Projects not specifically and entirely designed to serve persons with special needs, but that agreed to set aside units for tenants with special needs receiving substantial services as a result of a contract (or equivalent relationship) with a local service provider.**

The Development File must include a copy of the Annual Project Summary Report detailing which units were occupied by special needs persons and a copy of the contract entered into with the local service provider.

- 16. Projects that agreed to promote economic integration by serving market rate tenants (non-tax credit units) must evenly distribute among bedroom types and buildings, except elderly projects.**

The Development File must include a copy of the Annual Project Summary Report detailing which units are occupied by market rate tenants.

Part 1080	Interfacing LIHTC with Other Government Housing Programs
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In addition to the LIHTC, many developments are also financed with and/or regulated by other government housing programs. Such programs include Section 8, Rural Development, HOME, etc. These projects may have different income and rent targeting restrictions. In addition, sometimes, the requirements of the different housing programs conflict with LIHTC requirements. For example, the LIHTC program permits self-certification of assets (along with copies of bank statements or other supporting documentation supplied by the tenant) for households with combined

assets of less than \$5,000 while the Tax-Exempt Bond programs requires all household assets, regardless of the amount, to be verified by a third party. As a general rule, the owner/management agent must comply with requirements of the housing program that is most restrictive on a particular issue, unless IRS regulations specifically indicate an exception to the requirement.

For additional perspective about conflicts between the LIHTC program with other government housing programs, see Appendix N (Discussing LIHC Compliance Issues), which contains guest articles.

“Combining Tax Credits and Tax-Exempt Bonds: Understanding the Differences”.

“Combining Tax Credits and Other Major Federal Housing Programs”.